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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE TESLA, INC. SECURITIES
LITIGATION

Case No. 3:18-cv-04865-EMC

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S EMERGENCY MOTION
FOR CAUTIONARY JURY
INSTRUCTION**

This matter comes before the Court on Plaintiff's Emergency Motion for a Cautionary Jury Instruction. The Court has considered the Motion, any supporting material and argument of counsel. After considering the papers submitted by the parties and the argument of counsel, it is **HEREBY ORDERED** that Plaintiff's motion is **GRANTED** and **ORDERS** as follows:

1. The jury will be instructed as follows prior to Elon Musk testifying at trial:

JURY INSTRUCTION NO. ____

CAUTIONARY INSTRUCTIONS

I previously instructed you to assume that the statements "Funding secured" and "Investor support is confirmed. Only reason why this is not certain is that it's contingent on a shareholder vote." were untrue. When I tell you to "assume" these statements were untrue, you must accept that for the purposes of this proceeding, the statements "Funding secured" and "Investor support is confirmed. Only reason

1 why this is not certain is that it's contingent on a shareholder vote." were untrue
2 and you must disregard any fact, testimony, or argument that suggests that they
3 were true. You must also accept that Mr. Musk acted at least with deliberate
4 recklessness when he made those statements. You must also reject and disregard
5 any fact, testimony, or argument that he acted innocently, in good faith, or anything
6 less than recklessly.

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9 **IT IS SO ORDERED.**

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11 Dated: _____

Hon. Edward M. Chen
United States District Judge